

## **REMARKS/ARGUMENTS**

### **1.) Claim Amendments**

The Applicant has amended claims 11-13 and, in order to expedite prosecution, cancelled claims 14-20 without prejudice or disclaimer; no new subject matter has been added. Claims 11-13 remain pending in the application.

### **2.) Examiner Objections – Specification**

The Examiner objected to the specification for certain specified informalities. The Applicant has amended the specification to cancel the objected to text.

### **3.) Double Patenting Rejection**

The Examiner objected to Claims 14-20, under the judicially created doctrine of obviousness type double patenting, as being unpatentable over claims 8-14 of U.S. Publication No. 2007/0111745 A1, commonly-owned with the present application. The Applicant has cancelled claims 14-20 in the present application and, therefore, the Examiner's double patenting rejection is moot.

### **4.) Claim Rejections – 35 U.S.C. §101**

The Examiner rejected claim 20 on the asserted basis that the claim is directed to non-statutory subject matter. The Applicant has cancelled claim 20 and, therefore, the rejection thereof is moot.

### **5.) Claim Rejections – 35 U.S.C. §112**

The Examiner rejected claim 16 as being indefinite. In order to expedite prosecution, the Applicant has cancelled claim 16 and, therefore, the rejection thereof is moot.

## 6.) Claim Objections

The Examiner raised certain objections to claims 11-14, 16 and 20 for various informalities. The Applicant has cancelled claims 14, 16 and 20 and, therefore, the rejection thereof is moot. The Applicant has amended claims 11-13 as suggested by the Examiner.

## 7.) Claim Rejections – 35 U.S.C. §103(a)

The Examiner rejected claim 11 as being unpatentable over Choi, *et al.* (U.S. Patent No. 7,283,508) in view of Ishii, *et al.* (U.S. Patent Publication No. 2004/0202104) and Lee, *et al.* (U.S. Patent Publication No. 2003/0125068); claims 12-13 as being unpatentable over Choi in view of Ishii, Lee and Yu, *et al.* (U.S. Patent Publication No. 2004/0086137); claims 14, 18-19 as being unpatentable over Takano, *et al.* (U.S. Patent Publication No. 2005/0043051) in view of Yu and Buer (U.S. Patent Publication No. 2002/0173270); claims 15-17 as being unpatentable over Takano, Yu, Buer and Peng, *et al.* (U.S. Patent Publication No. 2004/0203782); and claim 20 as being unpatentable over Takano, Yu and Goto, *et al.* (U.S. Patent Publication No. 2003/0003941). The Applicant has cancelled claims 14-20 and, therefore, the rejection thereof is moot. The Applicant traverses the rejection of claims 11-13.

In rejecting claim 11, the Examiner first relies on Figure 3 of Choi, which corresponds to Figure 1 of Applicant's disclosure regarding the prior art. Figure 3 of Choi illustrates the control channel HS-SCCH and one exemplary shared channel HS-PDSCH and the overlapping relationship thereof. Choi, however, fails to identify that the overlap causes any problem and there is no suggestion in Choi that an overlapping "second part of the control data of the present transmission interval of the control channel " can or should be regulated as is performed according to the invention recited in claim 11. The Examiner's stated reasons for rejection acknowledge that Choi fails to disclose multiple claim limitations. To overcome those deficiencies, the Examiner then looks to the teachings of Ishii and Lee. Although the Examiner points to portions of those references relating to various power levels, the Examiner fails to point to a teaching in any of the references of "setting the power level of the second part of the

control data of the present transmission interval of the control channel [ ] as the power level of the first part [ ] adjusted by a function [ ] based on the power level of the shared packet data channel at the present transmission interval [ ] and the previous transmission interval [ ]" as recited in claim 11. Not only does the Examiner not establish a basis for combining the teachings of the three references to solve the problem addressed by Applicant's invention, there does not seem to be any teaching in any of the references of the regulation of the power level of a second part of a control channel in relation to a first part of a given transmission time interval. Therefore, the Examiner has not established a *prima facie* case of obviousness of claim 11. Furthermore, whereas claims 12-13 are dependent from claim 11, and include the limitations thereof, they are also not obvious in view of those references.

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**CONCLUSION**

In view of the foregoing amendments and remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 11-13.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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